



# City of Carmel

## Carmel Board of Zoning Appeals Regular Meeting Monday, December 18, 2006

The special meeting date for the December Carmel Board of Zoning Appeals met at 6:00 PM on Monday, December 18, 2006, in the Caucus Rooms of City Hall, Carmel, Indiana. The meeting was called to order by President James Hawkins.

Members in attendance were Kent Broach, Leo Dierckman, James Hawkins, Earlene Plavchak, and alternate Rick Ripma, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Dierckman moved to approve the minutes of the November 27, 2006 meeting as submitted. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0** with Mr. Ripma abstaining.

Mrs. Conn gave the Department Report. She noted only Items 9h and 10h remained on the agenda. The others had withdrawn or tabled to the January meeting.

Mr. Molitor gave the Legal Report. There had been a telephone status conference with the Court in the Martin Marietta litigation. The parties concurred with the Judge that there does not seem to be any prospect for a settlement at this point. They are proceeding with the Staff to respond to the discovery request from the other side. They do not expect any further negotiation with respect to settlement. There were documents exchanged and he will share them with the Board at the next Executive Session. Everyone was in agreement, including the Magistrate who works with the Judge, that further negotiations would be fruitless.

### H. Public Hearing:

#### 1-2h. **TABLED: Bill Estes Pre-Owned Facility**

The applicant seeks the following development standards variance approvals:

**Docket No. 06090020 V — Chapter 26.04 — north buffer yard reduction**

**Docket No. 06090023 V — Chapter 23C.10.3.5(c) — screened parking within front/side yard** The site is located at 4102 W. 96th St and is zoned B2/Business and I1/Industrial within the US 421 Overlay. Filed by Mary Solada of Bingham McHale.

#### 3h. **TABLED: Lubavitch of Indiana Worship Center**

The applicant seeks approval for the following special use approval:

**Docket No. 06050007 SU — Chapter 5.02 — Special Uses**

The site is located at 2640 W 96th Street and is zoned S-1/Residence.  
Filed by Dave Coots of Coots, Henke & Wheeler, P.C.

#### 4h. **TABLED: CMC Properties, Sec 2, Lot 3 - Holiday Inn**

The applicant seeks the following use variance approval for a full-service hotel use:

**Docket No. 06100016 UV — Section 16.01 — permitted uses**

~~The site is located at the northwest corner of 131<sup>st</sup> St. and Meridian St. and is zoned B-5/Business within the US 31 Overlay.  
Filed by DeBoy Land Development Services, Inc for Motels of Carmel, LLP.~~

**5h. TABLED: Forest Glen, Lot 3 - Printing Plus**

~~The applicant seeks the following use variance approval for an office use:  
Docket No. 06090012 UV — ZO Chapter 6.01 — Permitted Uses  
The site is located at 2110 E. 96th St. and is zoned S-2/Residence.  
Filed by Col. Rex A. Neal of Printing Plus.~~

**6-7h. WITHDRAWN: Monon & Main, Unit 2B**

~~The applicant seeks the following development standards variance approvals:  
Docket No. 06100010 V — Section 15.26 of PUD Z-462-04 — non-residential uses on 2nd & 3rd floors  
Docket No. 06100011 V — Section 2.13.B of PUD Z-462-04 — 2-car garage requirement  
The site is located northeast of Third Ave NW and Main St., and is zoned PUD/Planned Unit Development. Filed by Susan Karimi.~~

**8h. TABLED: Monon & Main, Unit 2D**

~~The applicant seeks the following development standards variance approvals:  
Docket No. 06110001 V — Section 15.26 of PUD Z-462-04 — non-residential uses on 2<sup>nd</sup> & 3<sup>rd</sup> floors  
The site is located northeast of Third Ave NW and Main St., and is zoned PUD/Planned Unit Development. Filed by Carole Moore of Sell4Free Real Estate for Elahe Farahmand.~~

**9h. Sunrise Senior Living**

~~The applicant seeks the following development standards variance approval:  
Docket No. 06110002 V — Section 27.08 — number of parking spaces  
The site is located at the northeast corner of Old Meridian St. and US 31. The site is zoned B-6/Business within the US 31 Overlay. Filed by Mary Solada of Bingham McHale, LLP for Sunrise Development, Inc.~~

Present for the Petitioner: Mary Solada, Bingham McHale, 2700 Market Tower, Indianapolis. Tim Hedges, one of the developers for Sunrise Development Inc. who has developed about 40 of these facilities, and Ashton Fritz, Schneider Engineering, were also in attendance. The property owner of this 4-acre tract is Mr. Peter Spoolstra, who was in the audience.

The site plan under Tab 3 in the packet was pointed out. It is bounded by Old Meridian on the east and north and US 31 on the west. It is a heavily wooded site. Sunrise has spent a considerable amount of time determining an appropriate site in Carmel for this type of facility. The proposal is for 140-unit senior living facility, with 78 units being assisted living and 62 being independent. Assisted living residents typically do not drive. Whereas some independent living residents do drive. That information is important in the calculations. They have been working with the Department since last April on this project. It came as a surprise that the Department had questions about the parking. They had worked hard with the Department on the site design requirements, particularly the two faces of the project on US 31 and Old Meridian. With the Old Meridian Corridor Plan, the City is developing an urban-look and trying to get away from the parking in the front. There will be no parking along US 31. She felt this project should jump-start the Old Meridian Corridor Plan implementation. There will a medical office building on the east side of the street. The Zoning Ordinance does not have parking standards specific to assisted living. The Department is taking the view that the nursing home standard, which is based on beds, is the appropriate standard. They disagreed because many of the independent residents

might have a two-bedroom unit, with guest bed, study or hobby room, and that would subject that unit to another parking space interpretation. This is not a nursing home, which by nature has a lot more staff (caretakers, cooks, etc.) They are proposing 109 parking spaces. There will be 36 spaces in an underground garage under the western building. The remaining would be surface spaces around the periphery of the site. (Tab 4 site plan) There will be no surface spaces adjoining US 31. They are comfortable with this number. They have relied upon information from National Institute of Traffic Engineers. Sunrise Senior Living has 420 various facilities around the country that are different combinations of units. Therefore they have experience with what works. Various parking ratios were shown in the packet. This proposal, .78, is more than what the company has been involved with in suburban Chicago and is consistent with projects done nationally. This parking ratio has worked elsewhere without problems. Many of the residents do not drive and generally do not own more than one vehicle. There is not the same high level of staff as in a nursing home. The larger shift is in the mid-afternoon which would be coincidental with the residents that drive who might be away. Any sort of assisted living facility does not have as many visitors as we all wish they did. Even if visitors do come by, it has been the operational experience that the important holidays are when family may pick up a resident for an outing. She covered the written Findings of Fact. The property is self-contained and the parking does not affect adjoining properties. This is the only variance they will need for the project. They meet setbacks, landscaping and greenspace requirements.

Tim Hedges stated they were proposing two different forms of senior housing. The company has done a lot of assisted living which is typically a frail 85 year old who needs some help with activities and daily living (grooming, dressing, medication, etc.). The rooms in that building are suites with a sink, counter space and small refrigerator, but no cooking facilities. Three meals are served in the common dining room each day. There are lots of other common areas in the building. This unit also includes a memory-care facility. Very few, if any, assisted living residents will drive. Parking is based on staff and visitors. If there were no rules to follow, they typically provide one-half space per unit. The independent living building is full apartments. They have kitchens, with a meal program available. These residents are usually 70 to 75 with some couples, but from their experience it will be largely single-occupied. They like to plan for each unit to have one parking space. They do not want to over-park the site. They like to keep the front green and focus on the outdoor amenities.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. Initially, the Department recommended negative consideration. The only parking regulations in the Zoning Ordinance are for retirement or nursing homes, which this is not. This is a totally different project. She handed out parking ratios for existing nursing homes and assisted living facilities in the area. The existing Sunrise of Carmel on Executive Drive has a ratio of .57 parking spaces per person. The petitioner is proposing .78 parking spaces per person. Manor Care at Summertrace at 131<sup>st</sup> and Pennsylvania is about .55 parking spaces per person. The exception is the Stratford at the Village of West Clay which has about 173 units or beds and has about 171 parking spaces. The PUD for Village of West Clay only requires one space for each 6 senior citizens and one space for each employee. So the Stratford at West Clay is very over-parked when compared to the PUD. The Department recommend that the Board would consider this favorably after they look at all the studies the Petitioner has submitted. Tab 7 in the packet shows parking ratios for various facilities.

Mr. Dierckman asked about the ratio at the new proposed Park Place.

Mrs. Conn did not know that figure from their PUD ordinance.

Mr. Dierckman stated he had been to the Manor Care at Summertrace a lot to visit his mother. They have 124 spaces for 261 units and it is really under-parked. Sunrise, where his mother resides now, is also under-parked. Both of these are lower ratios than the one proposed. If they used the .78 ratio for the 57 residents at Sunrise in Carmel, it would add only four more spaces. But at Manor Care, the .78 ratio for 261 residents would be 203, which would be an increase of 50 spaces. He was comfortable with the .78 ratio.

Mrs. Conn stated that the PUD for Park Place would have 1.4 garage/parking space for each independent unit; one parking space for each assisted living unit and one parking space for each 4 beds in the nursing home facility.

Mrs. Plavchak stated that subtracting the 92 spaces for the 62 independent living units and 30 employees from the 109 total spaces would leave 17 extra/guest parking spaces. She wanted to know where the vendors/deliveries would park.

Mr. Hedges stated there was a loading area at the side near the garage entrance for deliveries to the kitchen and refuse pick-ups. Any FedEx, UPS or mail deliveries would be short stops at the front entrance.

Ms. Solada stated that most residents that drove would be out during the day and not in their space when a vendor would be coming in.

Mrs. Plavchak asked if they were only allowing space for 17 visitors for 78 assistant living residents. Their Severna Park, Maryland project has a .8 ratio for parking spaces. She felt people in independent living would need a place to park and would be more likely to have visitors. She did not feel that 17 guest spaces were very much for visitors to the assisted living and independent living.

Mr. Hedges understood the concern. They had looked at that as a peak demand which would be in the middle of the day and a full complement of staff. They found visitation occurring after work and on the weekends when there is less administrative staff. Visitation is very sporadic.

Mr. Dierckman felt that only about 50 percent of the independent living residents would have a car. Any independent residing in a facility with assisted living is probably close to needing the assisted living services.

Mr. Hawkins asked if they knew the ratio for independent residents with cars.

Mr. Hedges stated that it is about three-quarters. Summertrace has been around for a while. As the independent residents age, they have a tendency to want to stay in their place. Over time the independent population will age and this will work as a campus with assisted living available. Mr. Ripma asked how many of the 30 employees were on-site during the peak hours.

Mr. Hedges stated it would be the 30 which would include full kitchen staff, housekeeping, administrative, maintenance, and care managers. The care managers are there for the overnight shift.

Mr. Ripma asked if they were planning that people had to leave in order for others to park or were they over-parked.

Mr. Hedges felt they were in a comfortable range with a little extra. If they were on their own, they would have 101 parking spaces.

Mr. Ripma asked about the amenities.

Mr. Hedges stated they would have heavy landscaping in front of the buildings. They will have a gazebo, a continuous walking path all the way around the site, benches every 75 to 100 feet, garden areas to sit and rest and bird accessories. The US 31 corridor will be heavily landscaped with good mature landscaping.

Mr. Broach wanted to link the variance to this use. If this changes some where down the road, how does a perspective buyer know that it would need more parking for commercial or retail?

Mr. Molitor stated that the variance would be granted only for this use. Any other use would need to look at the Ordinance for standards.

Ms. Solada agreed that the variance was only for this use.

Mr. Hawkins asked the width of the interior drive.

Mr. Fritz stated it was the typical 24 feet.

Mr. Hawkins asked if there were contractual obligations with the independent living units for garage space. Is it a designated spot?

Mr. Hedges stated there was no set policy on how they were going to do that. They planned that each would have either a garage space or surface parking space. He did not know if they were going to do that by some type of lottery or wait to see the demand. He was not sure they would have assigned parking spaces. There were no contractual obligations for parking spaces.

Ms. Solada confirmed they had gone through the TAC process in January. Because this project is in the US 31 corridor, they would seek ADLS approval in February. The parcel is zoned for this use.

Mr. Dierckman moved to approved **Docket No. 06110002V, Sunrise Senior Living**. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0**.

**10h. Yorktown Woods - Signage**

The applicant seeks the following development standards variance approval:

**Docket No. 06110004 V    Section 25.07.03-01.e    location of temporary subdivision sign**

The site is located at the 13800 block of Laura Vista Dr. is zoned R-1/Residence within the US 431 Overlay. Filed by Matthew Skelton for Baker & Daniels.

Present for the Petitioner: Marc Pfleging, Baker & Daniels, 600 E. 96<sup>th</sup> Street. This variance is to allow an alternate location for a temporary subdivision sign. He pointed out Tab 4 in the packet which illustrated the property location just east of Keystone Avenue, between 136<sup>th</sup> and 146<sup>th</sup> Streets. If the temporary construction sign was placed at the property's current entrance, there would be no value. The packet also included the design of the sign, landscaping and an illustrated representation of the sign from northbound Keystone Avenue.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The sign will meet all the requirements of the Sign Ordinance except the location. If the sign was placed at the entrance to the subdivision, no one would be able to see it. The Department recommended positive consideration with a time limit for as long as the temporary sign is legally established which is as long as there are lots for sale.

Mr. Dierckman stated that the sign is not visible because there is no through traffic and Beazer Homes knew this was a residential area.

Mr. Pfleging stated the sign would be visible at the north entrance, but not at the rear of the neighborhood. The parcel to the west of the area is undeveloped and a sign would not be visible from that entrance.

Mr. Dierckman did not feel the community's view of the woods should be sacrificed because Beazer consciously made a decision to develop a piece of property that does not have good street visibility. He felt very protective of the buffer.

Mr. Hawkins asked how long they thought it would take to develop the subdivision.

Mr. Pfleging felt with the approval of the variance, it would probably be two years.

Mr. Ripma, as an inside sales person, felt that if they did not have a sign and did not get people back there, the community could set there empty for a longer period. He was not sure the sign would help that much because there was no easy way to get to it.

Mr. Pfleging stated there were 5 lots sold with no signage.

Mr. Molitor pointed out that the Ordinance provides for Model Home permits to be granted by the Director for a term not to exceed 18 months. Then they can be extended for 6 months at a time up to a maximum of 36 months at the Director's discretion.

Mr. Ripma and Mr. Hawkins thought that was a good time limit.

Mr. Pfleging agreed to the 18-month variance and then re-visit it if more time was needed.

Mrs. Plavchak asked if there would be a sign at 146<sup>th</sup> and Jason Streets.

Mr. Pfleging stated there was no proposal for a sign at that location.

Mrs. Plavchak felt there was a lot of traffic on 146<sup>th</sup> Street. When people see the sign on Keystone Avenue, there is not much time to make a decision to exit at 146<sup>th</sup> Street. She thought they should have the same kind of sign at the entrance of 146<sup>th</sup> and Jason Streets.

Mrs. Conn stated that would be an illegal sign and they would still need a variance.

Mrs. Plavchak asked where they could legally put a sign.

The two entrances to the property were pointed out.

Mrs. Plavchak felt the sign location made more sense on 146<sup>th</sup> Street

Mr. Molitor did not know if the Petitioner controlled the property at 146<sup>th</sup> and Jason Streets.

Mr. Pfleging stated that they did not own the property at 146<sup>th</sup> and Jason Streets.

Discussion continued regarding the location of the sign and a variance for an off-premise sign. It would be more of an informational sign than a directional sign.

Mr. Ripma felt the people who lived on Jason Street would not want the sign and the traffic.

Mr. Broach commented that they could debate the utility of the sign, but he was sympathetic to the developer. He wanted a strict time limit of 12 or 18 months and then re-visited at that point.

Mr. Hawkins moved to approved **Docket No. 06110014 V, Yorktown Woods – Signage**, with an 18-month time limit. The motion was seconded by Mr. Dierckman and **APPROVED 3-2** with Mr. Dierckman and Mrs. Plavchak casting the negative votes.

## **I. Old Business**

There was no Old Business.

## **J. New Business**

There was no New Business.

Mr. Molitor suggested that the Board would need to meet in Executive Session before the next regularly scheduled meeting.

**K.** Adjournment

Mr. Dierckman moved to adjourn. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0**. The meeting adjourned at 6:55 PM.

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James R. Hawkins, President

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Connie Tingley, Secretary